

By: Ellis

S.B. No. 1797

A BILL TO BE ENTITLED

AN ACT

relating to the operation of the Texas Windstorm Insurance Association.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2210.104, Insurance Code, is amended to read as follows:

Sec. 2210.104. OFFICERS; SALARIES AND BONUSES. (a) The board of directors shall elect from the board's membership an executive committee consisting of a presiding officer, assistant presiding officer, and secretary-treasurer.

(b) The association shall post on the association's Internet website the salary of each officer of the association and any bonuses equal to or greater than \$1,000 in value paid or given by the association to any officer, employee, vendor or contractor of the association.

SECTION 2. Section 2210.105, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (e) to read as follows:

(a) Except for an emergency meeting, the association shall:
(1) notify the department not later than the 11th day before the date of a meeting of the board of directors or of the members of the association; and
(2) not later than the seventh day before the date of a meeting of the board of directors, post notice of the meeting on the

1 association's Internet website and the department's Internet
2 website.

3 (b) Except for a closed meeting authorized by Subchapter D,
4 Chapter 551, Government Code, a meeting of the board of directors or
5 of the members of the association is open to [+

6 [~~(1) the commissioner or the commissioner's designated~~
7 ~~representative; and~~

8 [~~(2)~~] the public.

9 (b-1) A meeting of the board of directors or the members of
10 the association, including a closed meeting authorized by
11 Subchapter D, Chapter 551, Government Code, is open to the
12 commissioner or the commissioner's designated representative.

13 (e) The association shall broadcast live on the
14 association's Internet website all meetings of the board of
15 directors.

16 SECTION 3. Section 2210.107, Insurance Code, is amended to
17 read as follows:

18 Sec. 2210.107. PRIMARY BOARD OBJECTIVES; REPORT. (a) The
19 primary objectives of the board of directors are to ensure that the
20 association:

21 (1) operates in accordance with this chapter and
22 commissioner rules;

23 (2) complies with sound insurance principles; and

24 (3) meets all standards imposed under this chapter.

25 (b) Not later than June 1 of each year, the association
26 shall submit to the commissioner, the legislative oversight board
27 established under Subchapter N, the governor, the lieutenant

1 governor, and the speaker of the house of representatives a report
2 evaluating the extent to which the board met the objectives
3 described by Subsection (a) in the 12-month period immediately
4 preceding the date of the report.

5 SECTION 4. Subchapter C, Chapter 2210, Insurance Code, is
6 amended by adding Section 2210.108 to read as follows:

7 Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS. Except as
8 specifically provided by this chapter or another law, the
9 association is subject to Chapters 551 and 552, Government Code.

10 SECTION 5. Section 2210.202, Insurance Code, is amended by
11 adding Subsection (c) to read as follows:

12 (c) The commissioner shall adopt rules to simplify and
13 streamline the process through which a person who has an insurable
14 interest in insurable property may apply with the association for
15 insurance coverage.

16 SECTION 6. Section 2210.203, Insurance Code, is amended by
17 amending Subsection (a-1) and adding Subsection (a-2) to read as
18 follows:

19 (a-1) [~~This subsection applies only to a structure~~
20 ~~constructed, altered, remodeled, or enlarged on or after September~~
21 ~~1, 2009, and only for insurable property located in areas~~
22 ~~designated by the commissioner.] Notwithstanding Subsection (a),
23 if all or any part of the property to be insured [~~which this~~
24 ~~subsection applies~~] is located in Zone A or another similar zone
25 with a high level of flood risk or in Zone V or another similar zone
26 with an additional hazard associated with storm waves, as defined
27 by the National Flood Insurance Program, [~~and if flood insurance~~~~

1 ~~under that federal program is available,~~] the association may not
2 issue an insurance policy for initial or renewal coverage unless
3 evidence is submitted to the association that the property to be
4 covered under the policy is also covered by a flood insurance policy
5 issued under the National Flood Insurance Program. This subsection
6 does not apply to property for which flood insurance is not
7 available under the National Flood Insurance Program [~~is submitted~~
8 ~~to the association~~].

9 (a-2) An agent offering or selling a Texas windstorm and
10 hail insurance policy [~~in any area designated by the commissioner~~
11 ~~under this subsection~~] shall offer flood insurance coverage
12 required under Subsection (a-1) to a the prospective insured, if
13 that coverage is available.

14 SECTION 7. Section 2210.203 (c), Insurance Code, is amended
15 to read as follows:

16 (c) A policy is automatically [~~may be~~] renewed annually [~~on~~
17 ~~application for renewal~~] as long as the property continues to be an
18 insurable property, or until canceled as provided by Section
19 2210.204. The association may require evidence that the property
20 is covered by a flood insurance policy in accordance with the
21 Subsection (a-1) before the renewal is effective.

22 (c-2) Section 2210.203 (c), Insurance Code, as amended by
23 this Act, applies only to an insurance policy that is delivered,
24 issued for delivery, or renewed on or after January 1, 2012. A
25 policy delivered, issued for delivery, or renewed before January 1,
26 2012, is governed by the law as it existed immediately before the
27 effective date of the Act, and that law is continued in effect for

1 that purpose.

2 SECTION 8. The heading to Subchapter E, Chapter 2210,
3 Insurance Code, is amended to read as follows:

4 SUBCHAPTER E. INSURANCE COVERAGE; CLAIMS SETTLEMENT AND PAYMENT

5 SECTION 9. Subchapter E, Chapter 2210, Insurance Code, is
6 amended by adding Sections 2210.205, 2210.210, and 2210.211 to read
7 as follows:

8 Sec. 2210.205. REQUIRED POLICY PROVISIONS: DEADLINE FOR
9 FILING CLAIM. (a) A windstorm and hail insurance policy issued by
10 the association must require an insured to file a claim under the
11 policy not later than the second anniversary of the date on which
12 the damage or loss that is the basis of the claim occurs.

13 (b) The commissioner, on a showing of good cause by a person
14 insured under this chapter, shall extend the two-year period
15 described by Subsection (a)(1) for a period not to exceed 90 days.

16 Sec. 2210.210. COVERAGE OF CERTAIN STRUCTURES PROHIBITED.
17 The association may not issue coverage to a structure, regardless
18 of whether the structure is otherwise insurable property under this
19 chapter, if the structure is used as a sexually oriented business,
20 as defined by Section 243.002, Local Government Code.

21 Sec. 2210.211. PROOF OF OTHER COVERAGE REQUIRED FOR
22 SETTLEMENT OF CERTAIN CLAIMS. (a) This section applies only to a
23 claim filed under an association policy the issuance or renewal of
24 which, under Section 2210.203(a-1), requires evidence of coverage
25 by a flood insurance policy.

26 (b) The association may not pay or settle a claim described
27 by Subsection (a) unless the person filing the claim provides

1 evidence satisfactory to the association that, on the date of the
2 loss that is the basis of the claim, the property insured under the
3 association policy was also covered by a flood insurance policy in
4 the amount required for issuance or renewal of the association
5 policy under Section 2210.203(a-1).

6 SECTION 10. Section 2210.355(g), Insurance Code, is amended
7 to read as follows:

8 (g) A commission paid to an agent for an association policy
9 must be reasonable, adequate, not unfairly discriminatory, and
10 nonconfiscatory and may not exceed 10% with refund for any unearned
11 portion.

12 SECTION 11. This Act applies only to a Texas windstorm and
13 hail insurance policy, and a dispute arising under a Texas
14 windstorm and hail insurance policy, delivered, issued for
15 delivery, or renewed by the Texas Windstorm Insurance Association
16 on or after the 30th day after the effective date of this Act. A
17 Texas windstorm and hail insurance policy, and a dispute arising
18 under a Texas windstorm and hail insurance policy, delivered,
19 issued for delivery, or renewed by the Texas Windstorm Insurance
20 Association before the 30th day after the effective date of this
21 Act, are governed by the law in effect on the date the policy was
22 delivered, issued for delivery, or renewed, and the former law is
23 continued in effect for that purpose.

24 SECTION 12. The Texas Windstorm Insurance Association shall
25 amend the association's plan of operation to conform to the changes
26 in law made by this Act not later than January 1, 2012.

27 SECTION 13. This Act takes effect immediately if it

1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2011.